

## **WISCONSIN ESTATE TAX**

For deaths occurring after September 30, 2002, and before January 1, 2008, Wisconsin imposes an estate tax equal to the credit allowed for state inheritance or estate taxes under federal law in effect on December 31, 2000. This estate tax was adopted in 2001 Wisconsin Act 16 in response to the federal Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001, which would have phased out Wisconsin's previous estate tax beginning with deaths occurring in 2002, eliminating the tax for deaths in 2005 and subsequent years.

Prior to EGTRRA, federal law allowed a credit against federal estate tax liability for state inheritance and estate taxes. Federal law limited the amount of credit allowed, and all states had an estate tax that enabled them to pick up the maximum amount of this credit. For most states, including Wisconsin, this "pick-up" tax was the only estate tax they imposed.

The maximum credit, or "pick-up" tax, was calculated using rates ranging from 0.8% on adjusted taxable estate (taxable estate less \$60,000) exceeding \$40,000 but not exceeding \$90,000 to 16% on adjusted taxable estate exceeding \$10,040,000. The credit was allowed only when there was a federal estate tax liability. Because federal law also provided a unified credit against estate and gift tax that effectively exempted estates valued at less than \$700,000 (for deaths occurring in 2002 and 2003), estates less than this amount were also exempt from the Wisconsin estate tax.

EGTRRA phases out the credit against federal estate tax for state death taxes, reducing it by 25% for deaths in 2002, 50% for 2003 and 75% for 2004; beginning with deaths in 2005, the credit is eliminated. Thus, EGTRRA effectively reduced and then eliminated the estate tax of all states whose only tax on transfers at death is the amount of that credit allowed under federal law. In addition, the new federal law increased the effective exemption to \$1 million in 2002 and 2003 and higher amounts thereafter, and eliminated the federal estate for deaths in 2010.

Wisconsin followed the EGTRRA changes for deaths through September 30, 2002 – the federal credit for state death taxes and thus the Wisconsin estate tax was reduced by 25% of what it had been prior to EGTRRA. Act 16 restored the Wisconsin estate tax for deaths occurring from October 1, 2002, through December 31, 2007, to equal the credit in effect for deaths on December 31, 2000. Federal law in effect for deaths on December 31, 2000, effectively exempted estates whose value did not exceed \$675,000. Since the effective exemptions under EGTRRA are \$1 million for deaths in 2002 and 2003 and higher amounts in subsequent years, some estates exempt from federal estate tax will be subject to Wisconsin tax.

For deaths after December 31, 2007, the Wisconsin tax will equal the credit under federal law in effect at that time; under the new federal law there is no credit, so there would be no Wisconsin estate tax. The estate tax changes in EGTRRA are sunsetted and in the absence of further changes, the federal estate law as it existed prior to EGTRRA will be restored in 2011. If that sunset occurs, then the Wisconsin estate tax will be restored in 2011.

Wisconsin estate tax collections in FY02 were \$82.6 million and collections for FY03 are estimated to be \$74 million, about \$35 million less than what they would have been had Wisconsin not conformed to EGTRRA's phase out of the federal credit for state deaths for

deaths from January 1 to September 30, 2002. For the next biennium, when Wisconsin follows federal law prior to the EGTRRA changes, collections are estimated to be \$118.6 million in FY04 and \$126.3 million in FY05.